

PATENT

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Date: 8-15-05
Christina M. Padamonsky**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Applicants(s): Jayme Edwards, *et al.*

Examiner: Van H. Nguyen

Serial No: 09/967,296

Art Unit: 2194

Filing Date: September 28, 2001

Title: INDUSTRIAL CONTROLLER INTERFACE PROVIDING STANDARDIZED
OBJECT ACCESS

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPEAL BRIEF

Dear Sir:

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Applicant submits this brief in connection with an appeal of the above-identified patent application. A credit card payment form is filed concurrently herewith in connection with all fees due regarding this appeal brief. In the event any additional fees may be due and/or are not covered by the credit card, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [ALBRP393US].

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I. Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

The real party in interest in the present appeal is Rockwell Software Inc., the assignee of the present application.

II. Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))

Appellants, appellants' legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which may be related to, will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims (37 C.F.R. §41.37(c)(1)(iii))

Claims 9, 10, 12, 25 and 28 have been cancelled. Claims 1-8, 11, 13-24, 26, 27 and 29-32 stand rejected by the Examiner. The rejection of claims 1-8, 11, 13-24, 26, 27 and 29-32 is being appealed.

IV. Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))

The Examiner has entered the amendments submitted after the Final Office Action. (See Communication from Examiner dated May 16, 2005).

V. Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))**A. Independent Claim 1**

Independent claim 1 recites an object-based interface for an industrial control system comprising a server program receiving communications from a client program employing a standard object protocol; a set of software objects including at least two third-party objects having differing proprietary object protocols also differing from the standard object protocol; and at least two object providers each communicating with the server program and one proprietary object to translate between standard object protocol and an associated one of the proprietary object protocols, wherein an interceptor monitors communications between the server program and the object providers and performs at least one of verifying license validity and recording a fee for use of an object, whereby objects from multiple vendors may be simply utilized by the client program. (See e.g. paragraphs 69-70).

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B. Independent Claim 17

A method for communicating with an industrial control system comprising receiving at a server program, standard object protocol communications from a client program; translating by means of an object provider between the standard object protocol communications and at least one proprietary object protocol associated with proprietary software objects including at least two third-party objects having differing proprietary object protocols also differing from the standard object protocol, wherein an interceptor monitors communications between the server program and the object provider and executes a predetermined program in response to such communications, whereby objects from multiple vendors may be simply utilized by [[a]] the client program. (*See e.g.* paragraphs 69-70).

VI. Grounds of Rejection to be Reviewed (37 C.F.R. §41.37(c)(1)(vi))

A. Whether claims 1-7, 9-13, 15-23, 25-29, 31 and 32 are unpatentable under 35 U.S.C. §103(a) over Auerbach *et al.* (US 6,549,937).

B. Whether claims 8, 14, 24 and 30 are unpatentable under 35 U.S.C. §103(a) over Auerbach *et al.* in view of Williams (US 6,591,272).

VII. Argument (37 C.F.R. §41.37(c)(1)(vii))**A. Rejection of Claims 1-7, 9-13, 15-23, 25-29, 31 and 32 Under 35 U.S.C. §103(a)**

Claims 1-7, 9-13, 15-23, 25-29, 31 and 32 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Auerbach *et al.* (US 6,549,937). Applicants' representative respectfully requests that this rejection be withdrawn for at least the following reasons. Auerbach *et al.* fails to teach or suggest all limitations of the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the

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references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. See MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art and not based on the Applicant's disclosure. See *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added).

The claimed invention relates to a program that provides a uniform protocol to different software objects from different third-party vendors. In particular, independent claims 1 and 17 recite similar limitations, namely ***at least two object providers each communicating with the server program and one proprietary object to translate between standard object protocol and an associated one of the proprietary object protocols***. Auerbach *et al.* is silent regarding such novel aspects of the subject claims.

The cited reference relates to an instant messaging system that employs a conversion platform that translates messages entered at a user interface to a messaging format supported by one or more different service providers. On page 3 of the Final Office Action, the Examiner incorrectly contends that Auerbach *et al.* shows the claimed limitation of ***at least two object providers***. This assertion is supported by portions of Auerbach *et al.* that teach a protocol conversion platform that allows for messaging across different messaging protocols. However, instead of teaching ***at least two object providers*** to translate between a standard object protocol and each of the protocols supported by the numerous proprietary objects as in the claimed invention, the reference is limited to showing a *single* conversion platform to support communication between a client program and numerous service providers.

Moreover, on page 8 of the Office Action, it is erroneously stated that the numerous service providers shown by the reference equates to the claimed feature of the ***at least two object providers***. One cannot simply employ the service providers to facilitate translation amongst differing object protocols when the goal to begin with is to translate protocols of the service providers to a protocol of a client program. Instead, and as discussed *supra*, Auerbach *et al.* utilizes a single conversion platform to convert between differing object protocols, but fails to

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employ *at least two object providers* to translate between a standard object protocol and associated proprietary object protocols as in the claimed invention.

In view of at least the foregoing, it is readily apparent that Auerbach *et al.* fails to teach or suggest all limitations set forth in applicants' claims. Accordingly, this rejection with respect to independent claims 1 and 17 (and the claims that depend there from) should be withdrawn.

B. Rejection of Claims 8, 14, 24 and 30 Under 35 U.S.C. §103(a)

Claims 8, 14, 24 and 30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Auerbach *et al.* in view of Williams (US 6,591,272). Withdrawal of this rejection is requested for at least the following reasons.

The subject claims depend from independent claims 1 and 17. As previously discussed regarding these claims, Auerbach *et al.* fails to disclose or suggest all their limitations. Williams fails to compensate for the deficiencies of Auerbach *et al.* Instead, Williams relates to a system that translates and transmits metadata and data from database tables into customary objects. Nowhere does the cited reference disclose the claimed limitations of at least two object providers each communicating with the server program and one proprietary object to translate between standard object protocol and an associated one of the proprietary object protocols, let alone an object based interface for an industrial control system. Accordingly, this rejection should be withdrawn.

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C. Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-8, 11, 13-24, 26, 27 and 29-32 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [ALBRP393US].

Respectfully submitted,
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VIII. Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

1. An object based interface for an industrial control system comprising:
a server program receiving communications from a client program employing a standard object protocol;
a set of software objects including at least two third-party objects having differing proprietary object protocols also differing from the standard object protocol; and
at least two object providers each communicating with the server program and one proprietary object to translate between standard object protocol and an associated one of the proprietary object protocols, wherein an interceptor monitors communications between the server program and the object providers and performs at least one of verifying license validity and recording a fee for use of an object;
whereby objects from multiple vendors may be simply utilized by the client program.
2. The object based interface of claim 1 wherein the standard object protocol controls object features selected from the group consisting of: object creation, object destruction, setting parameters of the objects, invoking methods of the objects, subscribing to events of objects, and canceling event subscriptions.
3. The object based interface of claim 1 wherein the proprietary object protocol controls object features selected from the group consisting of: object creation, object destruction, setting parameters of the objects, invoking methods of the objects, subscribing to events of objects, and canceling event subscriptions.
4. The object based interface of claim 1 wherein the standard object protocol includes discovery instructions and wherein the object providers respond to the discovery instructions by identifying object features of software objects with which they are associated.

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5. The object based interface of claim 4 wherein the object features identified are selected from the group consisting of: parameters of the objects, the methods of the objects, and events of the object.
6. The object based interface of claim 4 wherein the client program communicates with the server program over a network the object providers expose proprietary objects that are associated with a URL.
7. The object-based interface of claim 4 wherein the object providers are software objects that provide encapsulation of data passed to proprietary software objects.
8. The object based interface of claim 1 wherein proprietary software objects are selected from the group consisting of Java, Com, C++, XML, and Visual Basic objects.
9. (Canceled)
10. (Canceled)
11. The object based interface of claim 1 further including an asserter communicating with the object providers and the proprietary software objects executing a predetermined program in response to such communications.
12. (Canceled)
13. The object based interface of claim 1 including an Internet interface and wherein the client program communicates with the server program through the Internet interface.
14. The object based interface of claim 1 wherein the client program is a Java applet.
15. The object based interface of claim 1 wherein the software objects include graphic display elements.

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16. The object based interface of claim 1 wherein the software objects include graphic control elements.
17. A method for communicating with an industrial control system comprising:
- (a) receiving at a server program, standard object protocol communications from a client program;
 - (b) translating by means of an object provider between the standard object protocol communications and at least one proprietary object protocol associated with proprietary software objects including at least two third-party objects having differing proprietary object protocols also differing from the standard object protocol, wherein an interceptor monitors communications between the server program and the object provider and executes a predetermined program in response to such communications;
- whereby objects from multiple vendors may be simply utilized by the client program.
18. The method of claim 17 wherein the standard object protocol controls object features selected from the group consisting of: object creation, object destruction, setting parameters of the objects, invoking methods of the objects, subscribing to events of objects, and canceling event subscriptions.
19. The method of claim 17 wherein the proprietary object protocol controls object features selected from the group consisting of: object creation, object destruction, setting parameters of the objects, invoking methods of the objects, subscribing to events of objects, and canceling event subscriptions.
20. The method of claim 17 wherein the standard object protocol includes discovery instructions and wherein the object providers respond to the discovery instructions by identifying object features of software objects with which they are associated.
21. The method of claim 20 wherein the object features identified are selected from the group consisting of: parameters of the objects, methods of the objects, and events of the objects.

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22. The method of claim 20 wherein the client program communicates with the server program over a network and the object providers expose proprietary objects that are associated with a URL.
23. The method of claim 20 wherein the object providers expose a common software interface that provides an abstraction of the underlying proprietary software object interface.
24. The method of claim 17 wherein the proprietary software objects are selected from the group consisting of Java objects, XML objects, COM, C++, and Visual Basic objects.
25. (Canceled)
26. The method of claim 17 wherein the predetermined program performs at least one of the tasks of verifying license validity and recording a fee for use of the object.
27. The method of claim 17 further including communicating between the object providers and an assessor program executing a predetermined program in response to such communications.
28. (Canceled)
29. The method of claim 17 wherein the client program communicates with the server program through the Internet.
30. The method of claim 17 wherein the client program is a Java applet.
31. The method of claim 17 wherein the software objects include graphic display elements.
32. The method of claim 17 wherein the software objects include graphic control elements.

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IX. Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))

None.

X. Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))

None.